

To: Bowman, Liz[Bowman.Liz@epa.gov]
Cc: Graham, Amy[graham.amy@epa.gov]
From: Berger, Judson
Sent: Fri 5/12/2017 2:18:02 AM
Subject: Re: Embargoed Pebble Settlement Release

Thank you, and good meeting you

Sent from my iPhone

On May 11, 2017, at 9:13 PM, Bowman, Liz <Bowman.Liz@epa.gov> wrote:

Hi Judd – It was nice to meet you at our offices. We look forward to working with you . We thought you might be interested in the embargoed press statement we are putting out tomorrow morning, since this is a pretty big issue that has been ongoing for years. Please let me or Amy know if you have any questions. Thank you – Liz

****embargoed until 6:30 a.m. Eastern****

EPA AND PEBBLE LIMITED PARTNERSHIP REACH SETTLEMENT AGREEMENT

EPA Agrees to Allow Permit Process to Proceed; Pebble Agrees to Drop Lawsuits

WASHINGTON --The U.S. Environmental Protection Agency entered into a settlement agreement with the Pebble Limited Partnership to resolve litigation from 2014 relating to EPA's prior work in the Bristol Bay watershed in Alaska. The settlement provides the Pebble Limited Partnership (Pebble) an opportunity to apply for a Clean Water Act (CWA) permit from the U.S. Army Corps of Engineers before EPA may move forward with its CWA process to specify limits on the disposal of certain material in connection with the potential "Pebble Mine."

"We are committed to due process and the rule of law, and regulations that are 'regular'," said EPA Administrator Scott Pruitt. "We understand how much the community cares about this issue, with passionate advocates on all sides. Today's agreement will not guarantee or prejudge a particular outcome, but will provide the Pebble a fair process for their permit application and help steer EPA away from costly and time-consuming

litigation. We are committed to listening to all voices as this process unfolds.”

Key Terms of the Settlement:

- Pebble and the U.S. Department of Justice (on behalf of the EPA) will ask the U.S. District Court for the District of Alaska to dismiss the cases with prejudice and to lift the court-ordered preliminary injunction.
- EPA agrees to commence a process to propose to withdraw the currently pending proposed determination, consistent with its regulations.
- EPA agrees that it will not move to the next step in its CWA process, which would be to issue a recommended determination (determination steps are: proposed, recommended, final), until 48 months from settlement or until the U.S. Army Corps of Engineers issues its final environmental impact statement, whichever comes first. To take advantage of this period of forbearance, Pebble would have to file its permit application within 30 months.
- Pebble will drop its lawsuits and requests for fees against EPA, and agree to file no new Freedom of Information Act (FOIA) requests during the pendency of the "forbearance" period.
- EPA may use its scientific assessment regarding the Bristol Bay Watershed without limitation.

Background:

In 2014, under the previous administration, EPA’s Region 10 completed a multi-year watershed assessment in Bristol Bay, and then initiated a CWA Section 404(c) proposed determination, which described restrictions on large-scale mining in the watershed. Section 404 is the part of the CWA that governs the permit evaluation process for actions that discharge dredged or fill material into a covered water.

The May 11, 2017 settlement does not guarantee or prejudge any particular outcome to this process, but does ensure that the process will be carried out in a fair, transparent, deliberate, and regular way.

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